

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Ross	Team: Squad #1	CCRB Case #: 201507486	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/27/2015 3:35 AM	Location of Incident: Ryer Avenue between 180th Street and 181st Street	Precinct: 46	18 Mo. SOL 2/27/2017	EO SOL 2/27/2017	
Date/Time CV Reported Sat, 08/29/2015 6:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 09/03/2015 2:13 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Franklin Figueroa	24088	936596	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Franklin Figueroa	Abuse: PO Franklin Figueroa refused to provide his shield number to § 87(2)(b)	

### Case Summary

§ 87(2)(b) filed this complaint at the 114th Precinct stationhouse on August 29, 2015. It was forwarded to IAB, where it was received on August 29, 2015 and filed under log number § 87(2)(b). It was then forwarded to the CCRB, where it was received on September 3, 2015. On August 27, 2015, at approximately 3:35 am, § 87(2)(b) was in the vicinity of the 46th Precinct stationhouse, located at 2120 Ryer Avenue in the Bronx. He needed directions to Rockland County, New York. He saw PO Franklin Figueroa of the 46th Precinct alone in an RMP parked approximately 100 feet from the front entrance to the stationhouse. § 87(2)(b) stated that when he approached the RMP, he saw that PO Figueroa was sleeping. § 87(2)(b) knocked on the window and PO Figueroa exited to speak with him. § 87(2)(b) asked for directions and PO Figueroa provided them. He requested PO Figueroa's name, which PO Figueroa provided. § 87(2)(b) then informed PO Figueroa that he was going to report him to a supervisor for sleeping while on duty. Subsequently, he requested PO Figueroa's shield number, which PO Figueroa allegedly refused to provide (**Allegation A**). § 87(2)(b) confirmed PO Figueroa's name by reading it on the name plate displayed on the officer's chest, but the shield number was obstructed by a mourning band. § 87(2)(b) wrote down PO Figueroa's name and the number of his RMP and departed from the location of the incident.

§ 87(2)(g)

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint § 87(2)(b)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- On September 23, 2015 a request was sent to the Office of the Comptroller for any notice of claim filed by § 87(2)(b) in regards to this incident. As of the writing of this report no response has yet been received.

### Civilian and Officer CCRB Histories

- § 87(2)(b) has filed 36 previous CCRB complaints, § 87(2)(b)
- This is the first CCRB complaint filed against PO Figueroa (03. Board Review), who has been a member of the NYPD for ten years.

### **Findings and recommendations:**

#### **Allegation A—Abuse of Authority: PO Franklin Figueroa refused to provide his shield number to § 87(2)(b)**

§ 87(2)(b) (04. Board Review) testified that he was looking for directions and believed NYPD officers were the best resource to provide them. He saw a uniformed officer inside an RMP parked approximately 100 feet from the entrance to the 46th Precinct stationhouse. When he approached the RMP he saw that PO Figueroa was alone inside the RMP and was asleep. § 87(2)(b) knocked on the window, waking PO Figueroa up. He told PO Figueroa that he needed directions, and PO Figueroa exited the RMP.

§ 87(2)(b) asked PO Figueroa for directions to Rockland County, NY. PO Figueroa told him to take the Major Deegan Expressway but was not very clear in his speech. He mumbled and seemed disoriented because he had been sleeping. § 87(2)(b) was not satisfied with the directions provided to him and was especially frustrated that PO Figueroa had been sleeping. He asked PO Figueroa for his name, which PO Figueroa provided verbally. § 87(2)(b) looked at PO Figueroa's name plate and confirmed that it read "Figueroa." He told PO Figueroa that he was going to report the officer to a supervisor for sleeping while on duty. PO Figueroa protested that he had given § 87(2)(b) the directions that he had requested. § 87(2)(b) repeated that he was going to report him for sleeping. § 87(2)(b) asked PO Figueroa for his shield number and PO Figueroa did not respond. § 87(2)(b) looked at PO Figueroa's shield. The numbers at the bottom of the shield were covered by a piece of black material that § 87(2)(b) believed was made of rubber. § 87(2)(b) asked PO Figueroa a second time for his shield number, and PO Figueroa again said nothing. § 87(2)(b) was certain that PO Figueroa heard his requests because they were standing approximately two feet from one another and were making eye contact. § 87(2)(b) wrote down PO Figueroa's name on a piece of paper he was holding. He then took note of the RMP's number—4091—and wrote it down. § 87(2)(b) then thanked PO Figueroa and walked away. There were no other civilians or officers nearby during the incident.

PO Figueroa (05. Board Review) was working as a sergeant's operator at the time of the incident. He testified that he drove Sgt. Williams of the 46th Precinct back to the stationhouse and was waiting for the sergeant to return when § 87(2)(b) approached his RMP and asked for assistance. PO Figueroa denied that he was asleep. His window was closed and he exited the vehicle to speak with § 87(2)(b). § 87(2)(b) told PO Figueroa he was parked nearby and asked for directions to a town in upstate New York. PO Figueroa did not remember which town § 87(2)(b) needed to visit. PO Figueroa told § 87(2)(b) to take 164th Street to the Crosstown Bronx Expressway, to 10 West, and from there to take the Major Deegan Expressway. He stated that would take § 87(2)(b) to Middletown, where he could ask for further directions.

§ 87(2)(b) thanked PO Figueroa and then said something that PO Figueroa was not able to hear clearly. He asked § 87(2)(b) to repeat himself, and § 87(2)(b) stated that he was going to inform PO

Figueroa's supervisor that he had been sleeping on duty. § 87(2)(b) then asked PO Figueroa for his name and command, and PO Figueroa provided them verbally. PO Figueroa asked § 87(2)(b) to clarify why he wanted the information, and § 87(2)(b) repeated that he was going to report him to a supervisor for sleeping on duty. § 87(2)(b) wrote something down on a notepad he was holding, but PO Figueroa did not see what § 87(2)(b) wrote down. § 87(2)(b) then walked away.

PO Figueroa testified that he did not remember if § 87(2)(b) requested his shield number or if he provided it. He also testified that his shield was displayed on his chest and was visible when he spoke with § 87(2)(b). PO Figueroa was wearing a mourning band on his shield at the time of the incident, but it did not obscure the shield number. He stated that he did not make any effort to obscure his shield number.

NYPD Patrol Guide Procedure 203-09 (06. Board Review) requires that an officer must clearly state his or her name, rank, shield number, and command to any individual who requests that they do so. Further, NYPD Patrol Guide Procedure 204-17 (07. Board Review) states that while an officer may wear an elastic mourning band, 1/2 inch wide, on his or her shield, covering the seal of the city, the officer must leave the shield number or rank designation visible.

When he initially filed this complaint, § 87(2)(b) provided PO Figueroa's name and command, but not his shield number. As mentioned above, § 87(2)(b) has filed numerous prior CCRB complaints regarding allegedly sleeping officers. In those cases, he has consistently provided both officers' names and shield numbers when able to obtain them, as evidenced by cases § 87(2)(b)

§ 87(2)(g)

Squad: 1

Investigator: \_\_\_\_\_  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date